

FREDERICK COUNTY PLANNING COMMISSION
Wednesday, March 15, 2006
Minutes

Commission Members Present: Alan Duke, Chairman
 Joseph Brown III, Secretary
 J. Denham Crum
 Fern Hines
 Joan McIntyre
 Michael Cady, BOCC Liaison

Commission Members Absent: Robert White, Vice Chairman

Planning Staff Present: Steve Kaii-Ziegler, Director of Planning
 Eric Soter, Assistant Director
 Carole Larsen, Principal Planner II
 Timothy Blaser, Land Preservation
 Anne Bradley, Land Preservation
 Caryl Wenger, Recording Secretary

The Afternoon Session began at 2:00 p.m.

Mr. Duke welcomed everyone to the meeting and introduced the Planning Commission members.

Mr. Cady was initially not present at the meeting.

MINUTES

Mr. Brown made a motion to approve the meeting minutes of January 18, 2006, January 25, 2006, and February 22, 2006, with one correction to the first vote count in the January 18th minutes. Mr. Crum seconded the motion. Motion carried.

Motion: Brown/2nd Crum
Vote: 5 – 0 – 2 – 0
For: Brown, Duke, McIntyre , Hines, Crum
Against: None
Absent: White, Cady
Abstain: None

Mr. Cady joined the meeting at this point.

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COMMENTS

Mr. Cady wished everyone a Happy St. Patrick's Day. Mr. Duke then ask that the New Market Traffic Study (that was presented to the Board of County Commissioners) be presented to the Planning Commission. Mr. Cady stated that the study came from the Department of Public Works, and Mr. Soter agreed to contact them to determine a time for the presentation.

MALPF DISTRICT APPLICATIONS

Mr. Tim Blaser introduced Anne Bradley, the new Staff member who will be assisting him with Land Preservation.

AD-06-01 – Rum Springs Farm, LLC -- 172 acres located on both sides of Rum Springs Road, east of Highland School Road and north of Ford Fields Road.

Ms. Bradley gave the presentation on this application. Staff recommended approval. The Applicant was not present, and there was no public comment.

Mr. Brown made a motion to make a recommend approval of the Rum Springs Farm LLC MALPF District Application to the Board of County Commissioners. Ms. Hines seconded the motion. Motion carried.

Motion: Brown/2nd Hines
Vote: 5 –0– 1 – 1
For: Duke, Brown, McIntyre, Hines, Crum
Against: None
Absent: White
Abstain: Cady

AD-06-02 – Waybright Joint Venture -- 147 acres on both sides of Taneytown Pike (Md. Route 140) south side of Harney Road, 3,100 feet east of U.S. Route 15.

Ms. Bradley presented this application also, and stated that Staff recommended approval of the request. The Applicant in this case was present, but declined to speak. There was no public comment.

Ms. Hines made a motion to recommend approval of the Waybright Joint Venture request to the Board of County Commissioners. Mr. Crum seconded the motion.

Motion: Hines/2nd Crum
Vote: 5 –0– 1 – 1
For: Duke, Brown, McIntyre, Hines, Crum
Against: None
Absent: White
Abstain: Cady

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WALKERSVILLE REGION PLAN UPDATE

Staff presented the Public Hearing Draft Plan including the text document and the land use plan and zoning maps. Mr. Soter stated that the open houses for the Walkersville Region Plan Update are tentatively scheduled for:

Thursday, April 13, 2006, from 5:00 p.m. until 8:00 p.m. at Woodsboro Fire Hall.

Thursday, April 20, 2006, from 5:00 p.m. until 8:00 p.m. at Libertytown Fire Hall

Thursday, May 4, 2006, from 5:00 p.m. until 8:00 p.m. at Walkersville Town Hall

Staff will have maps and information available at these times to answer any questions.

Mr. Soter then reviewed the ten individual property owner requests for the Commission's review and recommendation.

WA-04-01 – Mr. Brown was recused. The Planning Commission agreed with Staff's recommendation of Agricultural Rural Land Use and Agricultural Zoning.

WA-04-02 – The Planning Commission agreed with Staff's recommendation of Agricultural Rural Land Use and Agricultural Zoning.

WA-04-03 – The Planning Commission agreed with Staff's recommendation of Agricultural Rural Land Use and Agricultural Zoning.

WA-04-04 – Staff recommended maintaining the current plan designation with the exception of removing the Village Center along MD 194 and replacing it with Low Density Residential. Staff further supported the currently policy as provided for in the Joint Annexation Limit Study from November 1990 which stated that this land, which is within the Walkersville Community Growth Area, be annexed and developed within the Town of Walkersville's jurisdiction. It further stated that the development area within the current town limits should be given the first priority to develop, and provisions for development opportunities outside the town limits would not be supported in the Joint Annexation Limit Study. The Planning Commission agreed with Staff's recommendation of Agricultural/Rural for 561 acres, LDR for 174 acres, and RC for 148 acres on the Land Use Plan, and Agricultural and Resource Conservation on the Zoning Map.

WA-04-05 – The Planning Commission agreed with Staff's recommendation of maintaining the existing Land Use Designation of Agricultural/Rural and Resource Conservation and Agricultural Zoning. Mr. Brown noted that a fair amount of this ground appears in the 100-year flood plain.

WA-04-06 – Mr. Brown was recused. Staff recommended that the Low-Density Residential be removed from the existing Land Use Plan Designation for the 32 acres, and that the Land Use for the entire parcel be Agricultural/Rural and Resource Conservation with Agricultural Zoning. Mr. Duke made a motion that the requested additional land-use plan designation and zoning not be accepted, but that it maintain the same land-use plan designation and zoning for the entire property. Mr. Crum seconded the motion.

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Motion: Duke/2nd Crum
Vote: 4 – 1 – 1 – 0 – 1
For: Duke, Hines, Crum, Cady
Against: McIntyre
Absent: White
Abstain: None
Recused: Brown

WA-04-07 – The Planning Commission agreed with Staff's recommendation of Agricultural Land Use and Limited Industrial Zoning.

WA-04-08 – The Planning Commission agreed with Staff's recommendation of Agricultural Rural Land Use and Agricultural Zoning.

WA-04-09 – The Planning Commission agreed with Staff's recommendation of Agricultural Rural Land Use and Agricultural Zoning.

WA-04-10 – The Planning Commission recommended the entire 130 +/- acres have a Land Use designation of LDR, and a Zoning breakdown as follows:

70 acres	AG
56 acres	R-3
4 acres	VC

GRIFFIN REZONING WORKSHOP – (R-05-09)

This was a workshop on a request to rezone 197 acres from Agriculture to Planned Unit Development on the east side of Ballenger Creek Pike across from Tuscarora High School. A Public Hearing was held before the Planning Commission on February 15, 2006. Testimony was heard at that time, the hearing was closed, and the Planning Commission opted to defer their recommendation to this workshop.

There was some discussion regarding the land needed for a proposed school site, and whether or not there should be access from the proposed active adult community to the school site.

Discussion

Attorney Rand Weinberg appeared on behalf of the Applicant, and stated that his client is only required to reserve 9.7 acres for a school site, based on the number of planned units. Mr. Weinberg proposed reserving 9.4 acres for a school site, and .3 acre for a water tank site, and further implied that if any additional acreage was needed for a water tank site, it would need to be deducted from the school site acreage. Mr. Ray Barnes, of the Frederick Public School System stated that ideally, 9.7 acres would be his preference for a school site, but further stated that he

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would agree to no less than 9.4 acres for the school, and road access to that site. Mr. Weinberg stated that his client was willing to reserve 9.7 acres for the school site, but did not feel that road access to the school site was necessary, since this is intended to be an active adult community project.

Attorney Michael Chomel stated that there is a specific mandatory requirement in the PUD Ordinance that says "if the PUD contains 500 or more dwelling units, then one acre of land for each 100 dwelling units will be provided for school sites," and it is not meant to be a ceiling on the amount of land needed to provide for all public facilities. It goes on to say, he said, that if the Planning Commission determines that a school site is not needed, a facility such as a fire/police station or a library may be substituted for a school. But, he said, it does not allow for a trade-off for road improvements.

Ms. McIntyre questioned the need for a school site since this is a proposed active adult community. She asked if there could be a better use for the land designated for a school site that would be more beneficial to all parties involved. She wondered if possibly more moderately priced dwelling units could be placed on the school site if, indeed, the school site was not needed. "That was our original proposal." Mr. Weinberg responded.

Mr. Chomel stated that the MPDU Ordinance is not a zoning ordinance, and that it is in a separate section of the Code designed to deal with the separate issue of moderately priced housing in the County and not schools.

Mr. Cady stated that the County does need the school site, especially with the addition of full day Kindergarten classes, and that this is an excellent site for a school. He further stated that he would support the School Board on this issue.

Mr. Weinberg spoke with his client and they agreed to fix the amount of land for the school site at 9.4 acres, and stated that if DUSWM demonstrated a need for more than .3 acres for their projects, he and his client would work with them to provide the additional acreage.

Mr. Duke stated that he understood Mr. Chomel to say that 9.7 acres were required of the applicant for a school site, and that the Planning Commission is charged with determining the best size for a school site. With the School Board stating a need for 9.4 acres, he said, the Planning Commission will take the .3 acres and find another site acceptable by law for the water tank. Mr. Weinberg agreed.

Mr. Cady stated that he believed the school site should be 9.7 acres, and that he would hate to see the project fail because of .3 of an acre. He asserted that he would back Mr. Barnes' original request for a 9.7-acre school site.

Mr. Weinberg and his client then proposed a 9.7-acre school site with no vehicular access. The lot size for the water tank will be worked out at a later date.

The applicant also proffered to upgrade the Ballenger Creek Pike to Crestwood Boulevard, provided that his MPDUs could be in buildings containing a combination of condominiums and

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Market Rate Units. The Planning Commission and the Staff agreed with this, but warned that the final decision would come from the Department of Housing.

Decision

Mr. Brown made a motion to recommend approval of the Phase I conditions for the Ballenger Run Active Adult Community, taking items #1 through #9 as presented today, amending #10 to end at a period at the end of the word school, or a comma there, and saying “and pedestrian access will be provided but no vehicular access”, and on #13, adding “or” by Homeowner’s Association. Ms. McIntyre seconded the motion.

Mr. Weinberg asked for clarification on #2 that states that MPDUs are not included in the “200 per year.” Mr. Duke clarified that #9 has been deleted, so it is actually Nos. #1 through #8 for a total of twelve conditions.

A copy of the revised conditions and proffers is attached hereto and made a part hereof.

Motion: Brown /2nd McIntyre
Vote: 5 – 0 – 1 – 1
For: Brown, Duke, McIntyre, Hines, Crum
Against: None
Absent: White
Abstain: Cady

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The Evening Session began at 7:00 p.m.

Commission Members Present: Alan Duke, Chairman
Robert White, Vice Chairman
Joseph Brown III, Secretary
J. Denham Crum
Fern Hines
Joan McIntyre
Michael Cady, BOCC Liaison

Commission Members Absent: None

Planning Staff Present: Steve Kaii-Ziegler, Director of Planning
Larry Smith, Zoning Administrator
Denis Superczynski, Principal Planner I
Mark Depo, Development Review Planning Director
Stephen O'Philips, Principal Planner
Caryl Wenger, Recording Secretary

ZONING TEXT AMENDMENT (ZT-06-01)

Requesting an amendment to the Zoning Ordinance to remove Section 1-19-182(H)(2) concerning political campaign signs.

Mr. Smith presented the proposed zoning text amendment. Mr. White asked if this would impact any of the other County regulations regarding commercial signs or other signs. Mr. Mathias replied that it would not. This only involves political campaign signs.

Public Comment

One member of the community spoke. He was neither for nor against the amendment. His comments were more directed to the homeowner's right to fly a flag.

Decision

Mr. White made a motion to recommendation approval of the amendment to the Board of County Commissioners. Ms. McIntyre seconded the motion. Motion carried.

Motion: White/2nd McIntyre
Vote: 6 –0– 0 – 1
For: Duke, Brown, McIntyre, Hines, Crum, White
Against: None
Absent: None
Abstain: Cady

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ZONING TEXT AMENDMENT (ZT-06-02)

Requesting an amendment to the Zoning Ordinance to remove Section 1-19-182(I)(9) concerning temporary real estate directional signs in the County right-of-way.

Mr. Smith presented the proposed zoning text amendment, and answered the Commissioners' questions regarding the intent of the amendment.

Public Comment

Two members of the community spoke in opposition to the proposed zoning text amendment. This could have a major impact on their businesses, they said, and both urged the commissioners to deny the request.

Decision

After much discussion, Mr. Brown made a motion to recommend denial of the amendment to the Board of County Commissioners. Mr. Crum seconded the motion. Motion carried.

Motion: Brown /2nd Crum
Vote: 5 –1– 0 – 1
For: Duke, Brown, McIntyre, Hines, Crum
Against: White
Absent: None
Abstain: Cady

JEFFERSON PARK WEST—(R-05-10) - Public Hearing

Jefferson Pike Associates, Inc., Core Development Group, Inc. –Requesting that 100.8 acres of land be re-zoned from Office/Research/Industrial (ORI) to Mixed Use Development (MXD). Located on the south side of MD 180, north side of MD 340, west of the Jefferson Technology Park in the Frederick Planning Region.

Mr. Denis Superczynski presented the request, which proposed a mixed-use development that included 550,000 square feet of employment space, 90,000 square feet of commercial space, and 375 dwelling units. He stated that the anticipated time frame for completion of the project is five years, although the timing of the development would be contingent upon the availability and the construction of infrastructure. He went on to say that the applicant proposes a three-year build-out of the residential component of the project at a rate of 125 recorded lots per year, and that both residential and employment buildings would begin construction in 2008. Staff found the request to be consistent with the Comprehensive Plan, and asked that the Planning Commission recommend approval of the request to the Board of County Commissioners with conditions.

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Applicant

Attorney Krista McGowan, of Miles & Stockbridge, LLC, appeared on behalf of her client, Jefferson Pike Associates, Inc. She spoke briefly of the benefits of the proposed Jefferson Park West, and the growing demand for this type of development.

Mr. Mark Friis, of Rodgers Consulting, outlined the road system and the regional access planned for the development, as well as the basic layout of the project.

Ms. McGowan then referenced the Zoning Ordinance governing MXD Districts and their approval, and stated she and her colleagues believe that all purposes, objectives, and requirements have been addressed in the application and the Justification Statement.

Public Comment

One member of the community asked how a teenager could ride a bike across the highway from this development to the Roy Rogers Restaurant (or any other establishment forcing them across the highway). He stated that there was nothing in the plans, that he could see, that addresses this issue.

Mr. Cady answered the question by stating that it would be a difficult thing to do, and that most parents deliver their children/teenagers to the parks by car. Community Parks are designed with hiking and biking in mind, he said, but most District Parks, are accessible by vehicle only. This particular project, he said, depending on how the twenty-six acres are developed, could qualify as a Community Park. Mr. Friis stated that there will be a street system leading to the park.

Another speaker asked whether his family's adjacent mobile home park would have the opportunity of tying into the future water and sewerage system of the Jefferson Park. Mr. Superczynski advised him to submit written notification of his interest to the Planning & Zoning staff dealing with water and sewer capacity.

Finally, Mr. Paul Zanecki, President of the Jefferson Technology Park voiced his support of Jefferson Park West.

Rebuttal

Mr. Friis then stated that he was in agreement with Staff's Recommendations and Findings, dated March 15, 2006, with the exception of a portion of Condition #2, Bullet 3 on Page 1, which stated that "the recommended minimum amount of employment land use in the MXD shall be at least 32.0 acres (550,000 sq. ft.)." He asked that the "550,000 sq. ft." be stricken from the conditions in order to maintain ultimate flexibility for end users of the site.

Decision

Ms. McIntyre made a motion to recommend approval of the request, along with striking the words "550,000 square feet" from Condition #2, Bullet 3 on Page 1 of Staff's Recommendations and Findings, dated March 15, 2006. Mr. White seconded the motion. Motion carried.

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The revised conditions are as follows:

1. The recommended maximum amount of *residential* land use in the MXD shall be 18.7 acres (375 dwelling units).
2. The recommended maximum amount of *commercial* land use in the MXD shall be 9.0 acres (90,000 sq. ft.).
3. The recommended minimum amount of *employment* land use in the MXD shall be at least 32.0 acres.
4. The recommended minimum amount of *open space* land use in the MXD shall be at least 13.8 acres.

Motion: McIntyre/2nd White
Vote: 6 –0– 0 – 1
For: Duke, Brown, McIntyre, Hines, Crum, White
Against: None
Absent: None
Abstain: Cady

SITE PLAN

McDonald's – (SP-00-18A) (Continued from March 8, 2006 FcPc meeting) Requesting Site Plan approval for a 3,878 sq. ft. restaurant located in the west quadrant of MD Rt. 355 and MD Rt. 80 intersection.

Mr. O'Philips explained that this item was continued from last month's meeting for the resolution of two issues. He then turned the discussion over to the Applicant.

Applicant

Mr. Tom Natelli, of Natelli Communities, stated that the matter was continued previously so that the parties involved could meet with the Urbana Civic Association to work out some issues. The first concern regarded traffic generated by this type of use in this location. Particularly, they were concerned about larger vehicles navigating the proposed McDonald's parking lot, and he stated that McDonald's has agreed to post signs barring oversized vehicles from entering. Additionally, he said, the Urbana Civic Association felt that this use of the property was not in keeping with the historic character of the area, namely the Civil War. McDonald's, therefore, agreed to meet with the local community to gather historical information in order to create a Civil War/Battlefield theme for the restaurant.

Additionally, he said, when the last leg of Route 355 is relocated, the north/south through traffic will be moved off of Old Urbana Pike and onto the new thruway running through the new community.

Mr. Duke asked if there was off-site parking available at the proposed site. Mr. Natelli replied at this site is designed for deliveries, but not for tractor-trailer parking.

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Mr. Brown asked if a deceleration lane could be installed at the entrance of the restaurant. Mr. Natelli stated that he could not recall whether there was a third lane there or not, but promised to look into it.

Ms. Linda Ropelewski, spoke on behalf of the Urbana Civic Association. She stated that eight (8) board members have voted “no” to this proposal, based on traffic and safety issues. Four (4) have voted “yes,” and one (1) did not vote, but still has concerns about traffic. She went on to say that they are very concerned about children crossing the highways to get to McDonald’s, and that she and her organization strongly recommend a pedestrian crosswalk.

Mr. White stated that this area was designated for an establishment such as this, and that the Planning Commission cannot arbitrarily deny something just because somebody “doesn’t like it.” He went on to say that this is an allowable use in the area, and unless there is a major roadblock involved, the Planning Commission is not in a position to deny it. Ms. Ropelewski responded that she and her group understood that.

Discussion

Mr. Brown again voiced his opinion that the right-turn in off of Route 80 would be a critical spot, and suggested that the Applicant work with the Department of Public Works to install a deceleration lane. Mr. O’Philips replied that he could ask Transportation Engineering to look into it.

Decision

Ms. McIntyre then made a motion for approval along with the Staff’s recommendations and conditions included from the March 8th meeting. Mr. Crum seconded the motion. Motion carried.

Conditions:

1. *Provide the following data on Sheet 5 “Lighting”:*
 - a. *Pole height.*
 - b. *Demonstration of lateral and upward glare shields.*
 - c. *Reduced lighting during non-business nighttime hours.*
2. Resolve Engineering and Planning concerns regarding the exit design.
3. Comply with miscellaneous Agency requests from:
 - a. Fire Marshal
 - b. DUSWM
 - c. Transportation Engineering
 - d. Historic Preservation Planner
4. Transportation Engineering shall re-examine the need for an additional right-in lane on Rt. 80.

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Proffers by Applicant:

1. A civil war theme shall be used for the interior of the restaurant.
2. Signs shall be posted barring over-sized trucks.
3. A pedestrian crossing at Sugarloaf Parkway and Rt. 355 shall be examined.

Motion: McIntyre/2nd Crum
Vote: 6 – 0 – 0 – 1
For: Duke, Brown, McIntyre, Hines, Crum, White
Against: None
Absent: None
Abstain: Cady

Respectfully submitted,

Caryl J. Wenger, Recording Secretary

Alan E. Duke, Chairman

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